UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,701	01/22/2004	Edward Eytchison	Sony-05200	7666

7590 02/04/2008

Jonathan O. Owens
HAVERSTOCK & OWENS LLP
162 North Wolfe Road
Sunnyvale, CA 94086

EXAMINER	
LONG, ANDREA NATAE	

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
02/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/763,701	EYTCHISON ET AL.	
	Examiner	Art Unit	
	Andrea N. Long	2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 November 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/09/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/30/2007 has been entered.

In Applicant's submission, claim 27 was added and claims 1-27 are now pending in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig Janik (US 2002/0013852 A1), hereinafter "Janik" in view of El-Saddik et al (Exploiting User Behaviour in Prefetching WWW Documents, 1998), hereinafter (El-Saddik).

As to independent claim 1, Janik teaches a method comprising:

identifying a preference corresponding to a user (page 6 paragraph [0082]);

detecting a current display window (page 5 paragraphs [0075] [0076], page 6 paragraph [0087]); and retrieving at least one audio/visual content in response to the current display window and the preference (Figs. 3,4, page 6 paragraphs [0082] [0094]). Janik does not forcefully teach prefetching at least one audio/visual content in response to the current display window and the preference. El-Saddik teaches prefetching documents in the WWW corresponding to a user's preference in addition to keywords within pages the user views (pages 304-306).

It would have been obvious to one skilled in the art at the time the invention was made to have combined the method of Janik with the prefetching of El-Saddik to reduce delay experienced by the end user and provides desired content to the user in a timely manner and at a quality level consistent with the user's expectations.

As to dependent claim 2, Janik teaches setting a prefetch parameter for a range of display windows in response to the preference (Figs. 5, 7, 9).

As to dependent claim 3, Janik teaches setting a prefetch parameter for a frequency of prefetching in response to the preference (page 11 paragraph [0165]).

As to dependent claim 4, Janik teaches retaining the user's preference information (page 5, paragraph [0080], page 6 paragraph [0082]). However Janik does not explicitly teach identifying the user associated with the preference. El-Saddik teaches that technology enables users to subscribe to channels, which describe an interest profile for a user. When the user starts

the browser, the prefetching mechanism that is built into the browser contacts the servers specified by the channel information and retrieves all appropriate information for off-line browsing by the user (page 304). Official Notice is taken, that it is old and well known in the art for a user's preference information to be stored and obtained by identifying the user through a variety of methods, for example, the use of a username and password.

It would have been obvious to one skilled in the art at the time the invention was made than an identification process for retrieving the user's preference would be implemented to eliminate the need for the user to re-enter their preferences for uses at a different time or location.

As to dependent claim 5, Janik teaches wherein the audio/visual content includes one of a document, an image, audio data, and video data (page 1 paragraph [0009]).

As to dependent claim 6, Janik teaches wherein the preference includes viewing habits and selected genres (Fig. 22, page 6 paragraph [0082]).

As to dependent claim 7, Janik teaches wherein the prefetching further comprises transmitting the audio/visual content to a prefetching buffer (page 1 paragraph [0008], page 5 paragraph [0072], page 12 paragraph [0176]). It is well known that a buffer is a region of memory to hold data temporarily until transferred. While Janik teaches the system including memory, he further teaches a Gateway storage peripheral which allows storage of data until the data is transferred, which one skilled in the art would considered equivalent to a buffer.

As to dependent claim 8, Janik teaches wherein the prefetching further comprises updating the audio/visual content based on the current display window (page 11 paragraph [0167]).

As to dependent claim 9, Janik teaches wherein the preference includes a play list (page 8 paragraph [0132]).

As to dependent claim 10, Janik teaches wherein the preference includes a genre selection (Fig. 22, page 6 paragraph [0082]).

As for dependent claim 11, Janik teaches wherein the preference includes a plurality of audio/visual content (Fig. 22, page 6 paragraph [0082]).

As for independent claim 12, Janik teaches a system comprising:

means for identifying a preference (page 6 paragraph [0082]);

means for organizing audio/visual content using a parameter (page 5 paragraphs [0076] [0077]);

means for detecting a current display window (page 5 paragraphs [0075] [0076], page 6 paragraph [0087]); and retrieving at least one audio/visual content in response to the current display window and the preference (Figs. 3,4, page 6 paragraphs [0082] [0094]). Janik does not forcefully teach prefetching at least one audio/visual content in response to the current display

window and the preference. El-Saddik teaches prefetching documents in the WWW corresponding to a user's preference in addition to keywords within pages the user views (pages 304-306).

It would have been obvious to one skilled in the art at the time the invention was made to have combined the method of Janik with the prefetching of El-Saddik to reduce delay experienced by the end user and provides desired content to the user in a timely manner and at a quality level consistent with the user's expectations.

As to independent claim 13, Janik teaches a method comprising:

detecting an activity (page 6 paragraph [0082] → user selecting preferences);

setting a prefetch parameter based on the detected activity (page 6 paragraph [0082]);

detecting a current display window (page 5 paragraphs [0075] [0076], page 6 paragraph [0087]); and receiving a content item based on the prefetch parameter and the current display window (Figs. 3,4, page 6 paragraphs [0082] [0094]). Janik does not forcefully teach prefetching a content item based on the prefetch parameter and the current display window. El-Saddik teaches prefetching documents in the WWW corresponding to a user's preference in addition to keywords within pages the user views (pages 304-306).

It would have been obvious to one skilled in the art at the time the invention was made to have combined the method of Janik with the prefetching of El-Saddik to reduce delay experienced by the end user and provides desired content to the user in a timely manner and at a quality level consistent with the user's expectations.

As to dependent claim 14, Janik teaches wherein the prefetch parameter includes a range of display windows (Figs. 5, 7, 9).

As to dependent claim 15, Janik teaches wherein the prefetch parameter includes a frequency of prefetching (page 11 paragraphs [0165]).

As to dependent claim 16, Janik teaches selecting at least one audio/visual content based on a search parameter (page 5 paragraphs [0079]).

As to dependent claim 17, Janik teaches the function of wherein the search parameter is a prefetchcontentlist command (page 6 paragraph [0082]). However, Janik does not label this function as a prefetchcontentlist command. Official Notice is taken that it is old and well known in the art that classes such as in databases, contain commands and are usually named to be descriptive of the function at which it is intended to perform.

It would have been obvious to one skilled in the art at the time the invention was made to have labeled a search parameter prefetchcontentlist to allow for ease for identification if a user or programmer needed to make modifications to the class and its commands.

As to dependent claim 18, Janik teaches the function of wherein the search parameter is a getcontentlist command (page 8 paragraph [0132], page 9 paragraph [0134). However, Janik does not label this function as a getcontentlist command. Official Notice is taken that it is old

and well known in the art that classes such as in databases, contain commands and are usually named to be descriptive of the function at which it is intended to perform.

It would have been obvious to one skilled in the art at the time the invention was made to have labeled a search parameter getcontentlist to allow for ease for identification if a user or programmer needed to make modifications to the class and its commands.

As to dependent claim 19, Janik teaches the function of wherein the search parameter is a getcontentbygenre command (page 5 paragraphs [0076] [0077]). However, Janik does not label this function as a getcontentbygenre command. Official Notice is taken that it is old and well known in the art that classes such as in databases, contain commands and are usually named to be descriptive of the function at which it is intended to perform.

It would have been obvious to one skilled in the art at the time the invention was made to have labeled a search parameter getcontentbygenre to allow for ease for identification if a user or programmer needed to make modifications to the class and its commands.

As to dependent claim 20, Janik teaches a function of wherein the search parameter is a getmediacontainer command (page 5 paragraphs [0076] through [0079]). However, Janik does not label this function as a getmediacontainer command. Official Notice is taken that it is old and well known in the art that classes such as in databases, contain commands and are usually named to be descriptive of the function at which it is intended to perform.

It would have been obvious to one skilled in the art at the time the invention was made to have labeled a search parameter getmediacontainer to allow for ease for identification if a user or programmer needed to make modifications to the class and its commands.

As to dependent claim 21, Janik teaches updating the prefetch parameter based on an additional activity (page 11 paragraphs [0165]).

As to dependent claim 22, Janik teaches prefetching at least one additional audio/visual content based on a changing current display window (page 11 paragraph [0167]).

As to independent claim 23, Janik teaches a system comprising:

a media container configured for storing an audio/visual content item ("Internet", Fig. 1 reference characters 8 and 10);

a buffer configured for temporarily storing audio/visual content item (page 1 paragraph [0008], page 5 paragraph [0072], page 12 paragraph [0176]). It is well known that a buffer is a region of memory to hold data temporarily until transferred. While Janik teaches the system including memory, he further teaches a Gateway storage peripheral which allows storage of data until the data is transferred, which one skilled in the art would considered equivalent to a buffer.

and

a presentation layer configured for transmitting the audio/visual content item to the buffer based on a user's preference and a current display window (page 3 paragraph [0027], page 5 paragraphs [0076] [0080], page 6 paragraph [0082]). Janik does not forcefully teach prefetching

content. However El-Saddik teaches that prefetching of content is a well known method used for retrieving WWW documents (Page 303).

It would have been obvious to one skilled in the art at the time the invention was made to have combined the teachings of Janik with the prefetching of El-Saddik to reduce delay experienced by the end user and provides desired content to the user in a timely manner and at a quality level consistent with the user's expectations.

As to dependent claim 24, Janik teaches an application configured to utilize the prefetched audio/visual content (page 6 paragraph [0084]).

As to dependent claim 25, Janik teaches wherein the presentation layer transmits the prefetched audio/visual item content based on a preset range of display windows (page 1 paragraph [0008], page 12 paragraph [0176]).

As to dependent claim 26, Janik teaches wherein the presentation layer transmits the prefetched audio/visual content item based on a preset frequency of prefetching (page 1 paragraph [0008], page 12 paragraph [0176]).

As to independent claim 27, Janik teaches a method comprising:

detecting an activity (page 6 paragraph [0082] → user selecting preferences);

setting a prefetch parameter based on the detected activity (page 6 paragraph [0082]);

detecting a current display window (page 5 paragraphs [0075] [0076], page 6 paragraph [0087]); and receiving a content item based on the prefetch parameter and the current display window at any time and in response to the detected activity (Figs. 3,4, page 6 paragraphs [0082] [0094]). Janik does not forcefully teach prefetching a content item based on the prefetch parameter and the current display window. El-Saddik teaches prefetching documents in the WWW corresponding to a user's preference in addition to keywords within pages the user views (pages 304-306).

It would have been obvious to one skilled in the art at the time the invention was made to have combined the method of Janik with the prefetching of El-Saddik to reduce delay experienced by the end user and provides desired content to the user in a timely manner and at a quality level consistent with the user's expectations.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 12, 13, and 23 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's arguments filed 11/30/2007 have been fully considered but they are not persuasive.

Official Notice was taken for claims 4 and 17-20 that it is old and well known in the art for a user's preference information to be stored and obtained by identifying the user through the use of a username or password. The Applicant disagrees with the conclusion and the taking of Official Notice to support the rejection. Therefore the Examiner has supplied prior art, which has been cited on Form PTO 892, Ban et al, US 2004/073787 A1, specifically on page 1 paragraph [0002], which supports the Official Notice taken by the Examiner.

Conclusion

6. The prior art made of record on PTO Form 829 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea N. Long whose telephone number is 571-270-1055. The examiner can normally be reached on Mon - Thurs 6:00 am to 3:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached on 571-272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andrea Long
January 30, 2008

William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER